

Assembly Bill No. 483

CHAPTER 552

An act to add Section 53758 to the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 4, 2013. Filed with
Secretary of State October 4, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 483, Ting. Local government: taxes, fees, assessments, and charges: definitions.

Article XIII C of the California Constitution generally requires a majority vote of the electorate for a local government to impose, extend, or increase any general tax and a $\frac{2}{3}$ vote of the electorate to impose, extend, or increase any special tax, and permits the use of the initiative to affect local taxes, assessments, fees, and charges. Article XIII C of the California Constitution also defines a local tax and sets out the categories of charges that are excluded from that definition. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Article XIII C of the California Constitution, and defines various terms for these purposes.

This bill would add a provision to the Proposition 218 Omnibus Implementation Act to additionally define the terms "specific benefit," and "specific government service" for purposes of Article XIII C of the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Business improvement districts and tourism marketing districts are important to California's economy, and provide a number of tourism-related services to California's tourism industry, including marketing of assessed businesses, tourism promotion, and special events to attract tourists.

(b) Business improvement district and tourism marketing district assessment revenues are intended only to provide benefits or services directly to those businesses paying the assessment, and business improvement district and tourism marketing district assessment revenues cannot be diverted to support general governmental programs.

(c) The purpose of this bill is to clarify that business improvement district and tourism marketing district assessments are not taxes within the meaning

of Article XIII C of the California Constitution merely because they might generate indirect, secondary benefits for nonpayors, provided that those indirect, secondary benefits occur incidentally and without cost to the payors of the assessment.

SEC. 2. Section 53758 is added to the Government Code, to read:

53758. For purposes of Article XIII C of the California Constitution and this article:

(a) “Specific benefit” means a benefit that is provided directly to a payor and is not provided to those not charged. A specific benefit is not excluded from classification as a “specific benefit” merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.

(b) “Specific government service” means a service that is provided by a local government directly to the payor and is not provided to those not charged. A specific government service is not excluded from classification as a “specific government service” merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor. A “specific government service” may include, but is not limited to, maintenance, landscaping, marketing, events, and promotions.

(c) The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the reasonable costs to the local government in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure compliance with the California Constitution it is necessary that this act take effect immediately.